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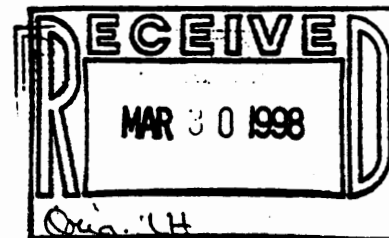
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March 31, 1998

FAXed 3/31/98: (916)255-2227

Chairman Daniel Pennington
California Integrated Waste Management Board
8800 Cal Center Drive
Sacramento, CA 95826



cc: ex parte pend file

RE: Request for an Appeal
Redwood Landfill, Marin County

Dear Chairman Pennington:

I am writing on behalf of Marin County Environmental Health Services acting as the Local Enforcement Agency ("LEA") for the California Integrated Waste Management Board ("CIWMB") in response to a letter to you from Redwood Landfill, Inc. ("Redwood") dated March 30, 1998. In that letter Redwood has requested an appeal to CIWMB. It is the LEA's position that Redwood's request for an appeal is not ripe because the LEA has not taken an enforcement action against Redwood. Consequently, Redwood had no grounds to request a hearing panel under Public Resources Code section 44307. Similarly, there are no substantive grounds for an appeal. Therefore, the LEA requests that the CIWMB deny the request for an appeal under Public Resources Code section 45031, subd. (a) which provides that the board may determine not to hear the appeal if the appellant fails to raise substantial issues.

The background surrounding this disagreement is fairly straightforward. Redwood received approval to conduct several demonstration projects using sludge-derived alternative daily cover ("ADC"). The demonstration projects ended sometime in August 1996. In a letter dated September 3, 1996, the LEA granted Redwood interim approval to continue using sludge-derived ADC pending application revision. The understanding was that LEA approval for use of sludge-derived ADC was only interim and that Redwood's application for revision of its solid waste facilities permit (SWFP) was imminent.

In a letter dated March 10, 1998, the LEA rescinded its permission for Redwood to use sludge-derived alternative daily cover on an interim basis pending Redwood's application for revision of its solid waste facilities permit (SWFP). The letter listed several reasons for the rescission, the foremost being that

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one and a half years had passed since the "interim" approval was granted yet Redwood still had not filed an application for permit revision. Environmental review and formal permitting of activities at Redwood using sludge-derived ADC has never taken place.


The LEA letter of March 10, 1998 was intended to give Redwood an opportunity to voluntarily comply with the LEA's directive to stop using sludge-derived ADC until that process received formal approval through the permit revision process. The letter of March 10th was not intended as a formal enforcement action. As such, the procedural steps outlined in Public Resources Code sections 45000-45024 and California Code of Regulations Title 14, Article 4 were not followed. Because the letter was not an "enforcement action", the LEA informed Redwood that it was not entitled to a hearing panel under Public Resources Code section 44307.

The LEA also informed Redwood that continued use of sludge-derived ADC would trigger an enforcement action by the LEA. At that time, Redwood would have the right to request a hearing panel. The LEA and Redwood have scheduled a meeting for April 13, 1998 to discuss these issues and hopefully reach a mutually agreeable resolution.

For the reasons outlined above, the LEA believes that Redwood's request for an appeal is premature and the issue will not be ripe for appeal until the LEA takes an enforcement action.

Thank you for your consideration of the foregoing matters.

Very truly yours,


Patrick K. Faulkner
COUNTY COUNSEL

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